

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

Jeff Grooms, d.b.a. Floris One Stop

UST NO. 198912037

**ADMINISTRATIVE
CONSENT ORDER
NO. 2010-UT-20**

**Mail To: Jeff Grooms
1504 Mowrey Avenue
Ottumwa, IA 52501**

**Orsborn, Milani, Mitchell, & Goedken, L.L.P.
ATTN: Gregory G. Milani, Esq.
110 East Third Street
PO Box 878
Ottumwa, IA 52501**

I. SUMMARY

The Iowa Department of Natural Resources (Department) and Jeff Grooms, d.b.a. Floris One Stop have entered into this administrative consent order (Order) for the purpose of resolving violations of the Department's underground storage tank (UST) compliance inspection rules.

For questions regarding this Order contact the following:

Relating to technical requirements:

Paul Nelson
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8779

Relating to Legal Issues:

Tamara Mullen, Attorney
Iowa Department of Natural Resources
502 E 9th Street
Des Moines, Iowa 50319-0034
Ph: 515/281-8934

II. JURISDICTION

This Order is issued pursuant to Iowa Code sections 455B.474(1)(f)(11) and 455B.476 which authorize the Director to issue any order necessary to secure compliance with Iowa Code 455B, Division IV, Part 8 and Environmental Protection Commission (Commission) rules contained in 567 Iowa Administrative Code (I.A.C.) Chapter 135. Iowa Code section 455B.109 and Commission rules at 567 I.A.C. Chapter 10 authorize the Director to assess administrative penalties up to \$10,000. Iowa Code section 17A.10 authorizes the use of informal settlements.

III. STATEMENT OF FACTS AND CONCLUSIONS OF LAW

1. Iowa Code section 455B.474(1)(i) authorizes the Commission to adopt rules to establish an UST third-party certified compliance inspection program. Commission rule 567 I.A.C.

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135.20 requires UST owners and operators to retain a compliance inspector certified by the Department under 567 I.A.C. Chapter 134, Part B, to complete a facility inspection and submit a report by December 31, 2007. Compliance inspections are subsequently required to be performed on a biennial basis.

2. Mr. Jeff Grooms is the registered owner and operator of four USTs (two 4,000-gallon tanks and two 500-gallon tanks) located at 104 E. Main, Floris, IA 52560. Mr. Grooms bought the site in November 2005.
3. On January 9, 2007, the Department mailed a letter informing Mr. Grooms of the December 31, 2007 deadline to complete a compliance inspection.
4. The Department mailed a second letter on October 17, 2007 reminding Mr. Grooms that he had not completed an inspection and that the inspection report was due no later than December 31, 2007.
5. On November 5, 2007, the Department posted a list of uninspected sites, including this site, on its webpage for compliance inspectors to contact.
6. On June 10, 2008 the Department mailed a "Notice of Violation" letter to Mr. Grooms for his failure to complete an inspection report. The notice required submittal of the report no later than July 11, 2008.
7. To date, Mr. Grooms has failed to complete a compliance inspection and submit a report; it is now 20 months overdue.
8. Owners and operators of a tank over 1,100-gallon capacity must submit a tank management fee of \$65 per tank by January 15th of each year. See 567 I.A.C. 135.3(5)"b". Failure to pay on time triggers a mandatory \$250 per tank late fee. See IOWA CODE section 455B.473(8).
9. Mr. Grooms owns two 4,000-gallon tanks and failed to pay tank management fees in 2006, 2008, and 2009.
10. Pursuant to Iowa Code 455B.474(2) and 567 I.A.C. chapter 136, owners and operators of USTs must have financial responsibility for taking corrective action and for compensating third parties for bodily injury and property damage caused by the release of a regulated substance from an UST. Financial responsibility must be maintained until permanent closure. See 567 I.A.C. 136.22.
11. Mr. Grooms has failed to provide the Department with proof of financial responsibility since he acquired ownership in 2005.
12. The Department issued a unilateral order, number 2010-UT-06, in March 2010, requiring him to complete a compliance inspection, pay overdue tank management fees, obtain financial insurance, and pay an administrative penalty; Mr. Grooms timely appealed this

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financial insurance, and pay an administrative penalty; Mr. Grooms timely appealed this order.

13. As the parties have reached a settlement, the Department is rescinding 2010-UT-06 and replacing it with this consent order. Furthermore, Mr. Grooms agrees to dismiss his contested case proceeding.

IV. ORDER

1. Mr. Grooms agrees to retain a Department-certified compliance inspector, make all necessary repairs, and submit a report to the Department within 45 days issuance of this order, by December 9, 2010.
2. Mr. Grooms agrees to provide proof of financial responsibility to the Department within 50 days of issuance of this Order, by December 14, 2010.
3. Mr. Grooms agrees to pay a penalty of \$1,000 to the order of the "Iowa Department of Natural Resources" within 45 days of issuance of this Order, by December 9, 2010.

V. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.476 and 567 I.A.C. Chapter 7 authorize a written notice of appeal to the Commission. By signing this Order, Mr. Grooms waives all rights to appeal.

VI. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative or civil penalties and referral to the Iowa Attorney General to obtain appropriate relief pursuant to Iowa Code sections 455B.476 and 455B.477. Compliance with the terms and conditions of this Order constitutes full satisfaction of all requirements pertaining to the violations described in this Order.

 Dated this 3 day of Nov, 2010.
PATRICIA L. BODDY, INTERIM DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

 Dated this 27 day of Oct, 2010.
JEFF GROOMS, D.B.A. FLORIS ONE STOP

Jeff Grooms, d.b.a. Floris One Stop: Field Office 5; Elaine Douskey, Paul Nelson; V.C. and I.